

**COMMISSIONERS:**

LAUREN "BUBBA" McDONALD, JR., CHAIRMAN  
STAN WISE  
ROBERT B. BAKER, JR.  
CHUCK EATON  
H. DOUG EVERETT



**FILED**

NOV 02 2010

EXECUTIVE SECRETARY  
G.P.S.C.

DEBORAH K. FLANNAGAN  
EXECUTIVE DIRECTOR

REECE McALISTER  
EXECUTIVE SECRETARY

**Georgia Public Service Commission**

(404) 656-4501  
(800) 282-5813

244 WASHINGTON STREET, S.W.  
ATLANTA, GEORGIA 30334-5701

FAX: (404) 656-2341  
www.psc.state.ga.us

<b>DOCKET#</b> 31734
<b>DOCUMENT#</b> 131991

In Re: **Application of Allied Wireless Communications Corporation for Designation as an Eligible Telecommunication Carrier in the State of Georgia**

**CORRECTED ORDER GRANTING ETC STATUS**

**I. Introduction and Jurisdiction**

This matter is before the Georgia Public Service Commission ("Commission") as a result of the Application of Allied Wireless Communications Corporation ("Allied") for Designation as an Eligible Telecommunications Carrier ("ETC") in the State of Georgia ("Application").

Pursuant to Section 254(e) of the Federal Telecommunications Act of 1996 (the "Act"), "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." 47 U.S.C. § 254(e). Section 214(e)(2) of the Act gives state commissions the primary responsibility for ETC designations. 47 U.S.C. § 214(e)(2). Further, O.C.G.A. §46-5-222 expressly provides that "[t]his Code section shall not be construed to affect any authority of the Public Service Commission to act in accordance with federal laws or regulations of the Federal Communications Commission, including, without limitation, jurisdiction granted to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements." O.C.G.A. § 46-5-222(b)(3).

Allied seeks ETC designation in order to receive support from the Federal Universal Service Fund ("USF") for use within Allied's requested ETC service area in Georgia. Under the terms of 47 U.S.C. § 214(e)(2) and O.C.G.A. § 46-5-222, the Commission has the necessary jurisdiction to designate Allied as an ETC.

On October 13, 2010, the Commission issued an Order Granting ETC Status. In that Order, the Commission designated Allied as an ETC, as of April 26, 2010, in its requested rural and non-rural wire centers. The Exhibit 1 attached to the Order purported to identify those specific wire centers. However, after the issuance of the Order, it was discovered that the exhibit contained inadvertent errors. Therefore, the Commission issues this Corrected Order Granting

ETC Status. Exhibit 1 to this Corrected Order correctly identifies the rural and non-rural wire centers in which Allied has been designated to serve as an ETC. This Corrected Order does not impact the effective date of Allied's ETC designation by this Commission.

## **II. Background**

On April 15, 2010, Allied filed its Application with the Commission. Allied provided evidence that it offers all of the following services supported by the federal high-cost universal service program (Application, pp. 6-10):

1. Voice-grade access to the public switched telephone network;
2. Local Usage;
3. Dual-tone, multi-frequency ("DTMF") signaling, or its functional equivalent;
4. Single-party service or its functional equivalent;
5. Access to emergency services;
6. Access to operator services;
7. Access to interexchange service;
8. Access to directory assistance; and
9. Toll limitation for qualifying low-income consumers.

Allied also asserted that it meets the additional eligibility criteria adopted by the Federal Communications Commission ("FCC") in its March 17, 2005 Report and Order establishing additional criteria that ETC applicants must satisfy in order to be granted ETC status. The FCC found that ETC applicants must demonstrate: (1) a commitment and ability to provide the supported services throughout the designated area; (2) the ability to remain functional in emergency situations; (3) that it will satisfy consumer protection and quality of service standards; (4) that it offers local usage comparable to that offered by the incumbent LEC; and (5) an acknowledgement that it may be required by the FCC to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act. (Application, p. 11)

Although the Commission had, in the past, elected not to exercise jurisdiction over wireless carriers (and consequently, not to designate wireless carriers as ETCs), the Commission elected in Docket No. 10396, Application of Alltel Communications, Inc. ("Alltel") for Designation as an Eligible Telecommunications Carrier in the State of Georgia, to assert jurisdiction over wireless carriers for the purpose of ETC designation and approve Alltel's application.

## **III. Staff Recommendation**

The Commission Staff ("Staff") found that Allied has met all statutory and regulatory requirements for designation as an ETC. The Staff also concluded that the Commission has the authority to grant ETC status to a wireless carrier. Consistent with the Commission's decision in Docket No. 10396, the Commission has authority to designate a wireless carrier as an ETC. 47

U.S.C. § 214(e)(2) states that a state commission “may” designate a requesting carrier if it meets the requirements outlined in the law. Although it addresses Commission authority over the setting of rates or terms and conditions for wireless service, the Georgia Competitive Emerging Communications Technologies Act of 2006 specifically states that it has no effect on “(a)ny authority of the Public Service Commission to act in accordance with federal laws or regulations of the Federal Communications Commission.” O.C.G.A. §46-5-222(b)(3). Therefore, the Staff recommended that the Commission approve Allied’s Application with the same conditions and filing requirements imposed upon Alltel, except as described herein:

- The Commission reserves the right to conduct audits as needed to determine that the funds are used for permitted purposes.
- Allied’s ETC designation may at any time be suspended or revoked by order of the Commission.
- Allied shall make all service offerings, including Lifeline/ Link-Up available on its internet website.
- The Commission’s order designating Alltel as an ETC required Alltel to file within 30 days of approval of its ETC application its terms and conditions of service, and rate plans including its Link-Up and Lifeline discounts available to qualifying low-income customers. Further, Alltel was required to notify the Commission of any future changes to its rates, terms, or conditions. The Staff concluded it was no longer necessary to require ETC applicants to file rates, terms, and conditions of services not associated with Lifeline or Link-Up. Therefore, the Staff recommended that the Commission decline to impose this requirement on Allied for services not associated with Lifeline and Link-Up. In addition, as part of its review, the Staff required Allied to file its Lifeline and Link-Up rates, terms, and conditions prior to approval of the Application by the Commission. Therefore, the Lifeline and Link-Up materials do not need to be refiled by Allied. However, the Staff recommended that the Commission require Allied to file, 30 days in advance, notice of any proposed changes to (1) increase the price of its Lifeline plan, (2) increase the price of Lifeline equipment, (3) increase the activation fee applicable to Lifeline customers, (4) decrease the Lifeline discount to eligible customers, (5) increase the charge for non-roaming overage rates, or (6) reduce the minimum monthly allowance of minutes provided to Lifeline customers. Allied has agreed to this condition in its trade secret Supplemental Filing made September 13, 2010. (Supplemental Filing, pp. 1-2)
- The Commission’s order designating Alltel as an ETC required Alltel to file within 30 days of approval of its ETC application proposed language to be used in all advertising of Lifeline/ Link-Up services and on its website for the Staff to review. As part of its review, the Staff requested, and Allied provided, sample advertising, customer sign-up forms, eligibility verification forms, and other materials that indicate that the company is already compliant with the language previously approved by Staff for other ETCs

previously designated by the Commission. However, consistent with its recommendation above, Staff recommended that the Commission require Allied to file, 30 days in advance, (1) notice of any proposed substantive changes to the language used in promotional materials to notify customers of their right to contact the Commission with complaints about the Lifeline program, (2) notice of any proposed substantive changes to the addendum to their standard customer agreement specific to the Lifeline program, and (3) notice of any proposed substantive changes to the verification form used to verify the eligibility of Lifeline subscribers. Allied has agreed to this condition in its trade secret Supplemental Filing made September 13, 2010. (Supplemental Filing, p. 2)

- Allied shall file the following information on March 31, 2011 (and updated information every March 31 thereafter, unless otherwise ordered by the Commission):

1. A map showing Allied's actual January 2010 service area, and a map showing the January 2011 estimated service area *increase or decrease*. Additionally, the map should include locations of all new facilities constructed.
2. In accordance with 47 C.F.R. § 54.209(a)(3), Allied shall report all instances in which the company refuses to serve a customer. Allied shall be required to provide information regarding the specific location of the customer (street address), the company's rationale for refusal of service, and the company's progress with establishing interconnection arrangements which permit resale of either wireless or Incumbent Local Exchange Carrier ("ILEC") services in the customer's location.
3. Estimated total 2010 federal funds (from trade secret filing made with the Application), actual total federal funds received in 2010, and estimated total funds to be received in 2011.
4. A spreadsheet listing each wire center, the name of the ILEC associated with that wire center, estimated 2010 expenses (from trade secret filing made with the Application), actual 2010 expenses, and estimated 2011 expenses.

The Commission imposed the following additional requirement upon Tracfone Wireless, Inc. in Docket No. 26282:

**ORDERED FURTHER**, that TracFone's ETC designation shall also be conditioned upon the satisfactory resolution of complaints filed with the Commission's Consumer Affairs Unit.

The Staff recommended application of the additional Tracfone requirement upon Allied.

In its September 13, 2010 filing, Allied included trade secret information pertaining to its Lifeline product including rates, connection charges, equipment costs, minutes of use provided,

and overage charges, as well as a sample Lifeline advertisement, customer service agreement, customer sign-up form, eligibility form, and customer program addendum.

Consistent with FCC rule 47 C.F.R. 54.403(b), Allied's Lifeline product is based on its lowest-priced service offering. Allied has agreed to contribute \$3.50 in addition to the federal Lifeline discount of \$6.50 in order to acquire an additional 50% federal match of \$1.75, which results in a total Lifeline discount of \$13.50 per customer per month. Allied's standard connection charge will be discounted by \$30 or 50% (whichever is less), consistent with federal Link-Up credit guidelines. Allied will offer at least one low-cost phone to Lifeline customers.

In a filing made on August 9, 2010, Allied requested that its ETC designation be granted *nunc pro tunc*, in order that "none of the universal service high-cost support that would have otherwise been provided to these areas under the ETC designation granted to [Alltel], is lost as a result of the transfer of control of the assets formerly held by Alltel in these areas to Atlantic Tele-Network, Inc., Allied Wireless' parent company." Allied further states that, "Any loss of USF support will inherently diminish the near-term investment that the Allied Wireless will be able to make in its proposed ETC service area, thereby affecting the level of coverage and services that Allied Wireless would otherwise be able to provide to its customers." Allied requested that the designation be made retroactive to April 26, 2010. (August 9, 2010 Letter to Reece McAlister, p. 1)

In granting Allied's North Carolina application for ETC, the FCC included the following footnote<sup>1</sup>:

24 On June 16, 2010, ATN submitted an ex parte letter in which it noted that high-cost support to AWCC would be interrupted because the Verizon divestitures were required to be structured as asset sales, rather than corporate mergers. *See* Letter from Douglas J. Minster, ATN, to Carol Matthey, FCC (dated June 16, 2010). ATN, therefore, requested that AWCC's ETC designation be effective as of April 26, 2010, the date on which AWCC received control of the relevant Verizon Wireless licenses and authorizations. *Id.* Because ATN voluntarily withdrew this request on August 26, 2010 in order to expedite resolution of this matter, the issue is no longer pending before us. *See* Letter from Jonathan V. Cohen, Counsel to AWCC, to Marlene H. Dortch, FCC Secretary, WC Docket No. 09-197 (filed August 26, 2010). We therefore do not rule on this aspect of AWCC's petition; AWCC's ETC designation shall be effective upon release of this order. Given that we do not address the merits of ATN's request for a retroactive designation, our decision here should have no bearing on pending state proceedings regarding the appropriate effective date of any ETC designation.

While the FCC did not address the merits of Allied's request for retroactive (or *nunc pro tunc*) designation, the Staff interpreted the footnote to permit retroactive designation upon a

---

<sup>1</sup> WC Docket No. 09-197; CC Docket No. 96-45

finding by the Commission. The Staff found that Allied, in acquiring divested assets of a carrier designated as an ETC by this Commission should be given unique consideration and therefore recommended approval of Allied's request for *nunc pro tunc* designation.

#### **IV. Requirements for Designation**

The Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience and necessity, so long as the requesting carrier meets the requirements of 47 U.S.C. § 214(e)(2). Accordingly, under section 214 of the Act and corresponding FCC rules, an ETC application must demonstrate the following: (1) the applicant's capability and commitment to offer all services that are supported by the USF; (2) the capability and commitment to offer the supported services "using its own facilities or a combination of its own facilities and resale of another carrier's services"; (3) a description of how the applicant will "advertise the availability of the services and the charges therefore using media of general distribution"; and (4) a detailed description of the geographic service area for which it requests ETC designation from the Commission. 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(d).

#### **V. Discussion**

##### **A. Basic Qualifications**

###### **1. Offering the Services Designated for Support**

Allied demonstrated in its Application that it, as a common carrier, currently offers, or will offer immediately upon designation as ETC, the services supported by the federal universal service mechanisms.<sup>2</sup> Additionally, Allied is able to offer and support the federally supported services utilizing its own facilities. (Application, pp. 18-19)

###### **2. Advertising**

Allied has demonstrated that it currently advertises, and will continue to advertise after ETC designation, the supported services throughout its requested ETC service area through several different media, including newspaper, radio, its website, and other direct advertising methods. Finally, Allied stated that it will provide notices at local unemployment, social security, and welfare offices and will implement its outreach program detailed in the application upon certification by the Commission. (Application, pp. 19-21)

##### **B. Additional ETC Requirements**

Allied demonstrated in its Application, its compliance with the additional ETC requirements identified in 47 C.F.R. § 54.202 and 54.209 as follows:

1. Commitment to Provide Service

Allied committed to offer and provide service in response to all reasonable requests for service pursuant to the six-step process set forth in 47 C.F.R. § 54.202(a). (Application, pp. 11-13)

2. Service Improvement Plan

Allied filed, on September 7, 2010, details of its network service improvement that demonstrated the appropriate use of support. Allied also committed to the submission of detailed progress reports on its service improvement plan. (Application, pp. 13-14)

3. Ability to Remain Functional in Emergency Situations

Allied demonstrated that its network is designed to remain functional in emergency situations. Specifically, Allied has adequate amounts of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. (Application, pp. 14-17)

4. Satisfaction of Applicable Consumer Protection Standards

In satisfaction of applicable consumer protection standards, Allied is committed to annual compliance with the CTIA Consumer Code for Wireless Service. (Application, p. 17)

5. Local Usage

Allied demonstrated that all of its service offerings are comparable to the incumbent offerings available in its requested ETC service area. (Application, pp. 17-18)

6. Equal Access Requirement

Allied acknowledged that the FCC may require it to provide equal access to interexchange services in the event that no other ETC is providing equal access within its ETC designated area. (Application, p. 18)

C. Public Interest

Allied demonstrated in the application that it is consistent with the public interest, convenience and necessity to designate Allied as an ETC for its requested ETC service area. Under section 214 of the Act, state commissions must determine whether an ETC designation is consistent with the public interest, convenience and necessity. 47 U.S.C. §214(e)(2). Congress

did not establish specific criteria to be applied under the public interest tests in section 214 or section 254; However, the FCC's March 17, 2005 Order addressing ETC designation criteria clearly addresses the appropriate public-interest analysis to be undertaken. *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, March 17, 2005. ("ETC Order"). Specifically the FCC provided that:

The public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunication services at just, reasonable and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.

ETC Order, ¶ 40.

Beyond the principles articulated within the Act, the FCC identified additional factors to analyze whether the designation of an additional ETC is in the public interest. Other factors to consider on a fact-specific basis are the benefits of increased consumer choice and the unique advantages and disadvantages of the competitor's service offering. ETC Order, ¶ 41. In considering "consumer choice" the FCC stated "granting an ETC designation may serve the public interest by providing a choice of service offerings in rural and high cost-areas. Likewise, in considering the "advantages of a particular service offering" the FCC examines "the benefits of mobility that wireless carriers provide in geographically isolated areas, the possibility that an ETC designation will allow customers to be subject to fewer toll charges and the potential for customers to obtain services comparable to those provided in urban areas, such as voicemail, numeric paging, call forwarding, three-way calling, call waiting and other premium services." ETC Order, ¶ 44(2).

Furthermore, the apparent intent of the additional designation/certification requirements established in the FCC's ETC Order is to ensure that each ETC designation would serve the public interest. For example, the additional requirement of a service quality improvement plan and the commitment to respond to any reasonable request for service will benefit the public as a result of the designation of ETC applicants that are committed to using high-cost support to alleviate poor service quality in the ETC's designated service area. ETC Order, ¶ 45. Allied provided a detailed five-year plan in its Supplemental Filing to Support ETC Application made September 7, 2010. Allied has also committed to serve all customers making a reasonable request for service. (Application, pp. 11-13)

Consistent with the FCC analysis, the Commission finds Allied has demonstrated the numerous public interest benefits which will accrue to Georgia consumers as a result of Allied's designation:

- Improved coverage and service quality



- Significant health and safety benefits
- No current burden on the Federal Universal Fund.
- Increased competition
- No “cream-skimming” of low-cost customers from ILECs, due to applicant’s willingness to serve the affected ILECs’ entire study areas  
(Application, pp. 23-30)

The Commission concludes that the designation of Allied as an ETC throughout its requested ETC service area is within the public interest, convenience, and necessity.

**WHEREFORE, it is**

**ORDERED**, that the Commission has jurisdiction to designate Allied as an ETC pursuant to 47 U.S.C. § 214(e)(2) and O.C.G.A. § 46-5-222(b)(3).

**ORDERED FURTHER**, that Allied is designated as an ETC, as of April 26, 2010, in the requested rural and non-rural wire centers identified in Exhibit 1 of this Order and that, in accordance with 47 C.F.R. §§ 54.313 and 54.314 of the FCC’s Rules, the Commission hereby certifies that all federal high-cost support provided to Allied Wireless in this State will be used only for the provision, maintenance and upgrading of facilities and services necessary to offer and advertise the federally supported services in the rural and non-rural wire centers where Allied has been designated as an ETC consistent with Section 254(e) of the Communications Act of 1934, as amended.

**ORDERED FURTHER**, that all federal low-cost support provided to Allied Wireless in this State shall be used only to provide Lifeline and Link-Up credits for qualifying low-income customers

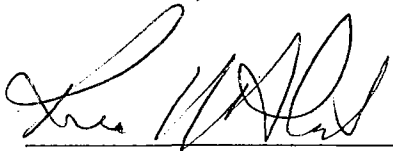
**ORDERED FURTHER**, that Allied shall abide by the FCC’s ETC designation criteria and rules set forth in 47 C.F.R. §§ 54.202, 54.209 and the Staff Recommendation in this matter as set forth above.

**ORDERED FURTHER**, that this Order shall remain in full force and effect until further Order of the Commission.

**ORDERED FURTHER**, that a motion for reconsideration, rehearing, oral argument, or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

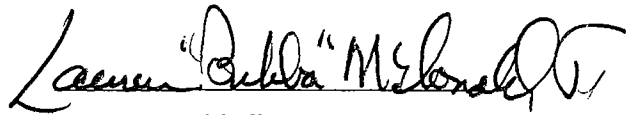
**ORDERED FURTHER**, that jurisdiction over this matter is expressly retained for the purpose of entering such further Order(s) as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 2<sup>nd</sup> day of November, 2010.



Reece McAlister  
Executive Secretary

11-2-10  
DATE



Lauren "Bubba" McDonald, Jr.  
Chairman

Nov. 2, 2010  
DATE

### Non-Rural Wire Centers

[illegible]

ALBYGAMA  
AMRCGAMA  
ARTNGAES  
BCTNGAMA  
BNBRGAMA  
BRVIGAMA  
BRWKGAMA  
CCHRGAMA  
CLMBGAMT  
CLMBGAMW  
CLQTGAES  
CMLLGAMA  
CNCRGAMA  
CORDGAMA  
DBLNGAMA  
ESMNGAES  
FRSYGAMA  
FTVYGAMA  
GAY GAMA  
GNVLGAMA  
GRFNGAMA  
HMTNGAMA  
HZLHGAMA  
JESPGAES  
JKISGAMA  
LERYGAMA  
LMCYGAMA  
LMKNGAMA  
LSBGGAMA  
LTVLGACS  
NWTNGAHD  
PLHMGAMA  
PNMTGAMA  
RCLDGAMA  
SMVLGAMA  
SNVLGAES  
SSISGAES  
THVLGAMA  
VDALGAMA  
WDBYGAES  
WGVLGAES  
ZBLNGAMA

CAMDEN TELEPHONE & TELEGRAPH CO., INC.

## STMYGAXA

**Exhibit 1**

CITIZENS TELEPHONE CO., INC.	LESLGAXA
CITIZENS TELEPHONE CO., INC.	LKBLGAXA
CITIZENS TELEPHONE CO., INC.	PLNSGAXA
CITIZENS TELEPHONE CO., INC.	VINNGAXA
COMSOUTH TELECOM	HWVLGAXA
DARIEN TELEPHONE CO., INC.	DARNGAXA
DARIEN TELEPHONE CO., INC.	EULNGAXA
DARIEN TELEPHONE CO., INC.	SPISGAXA
GLENWOOD TELEPHONE CO.	GLWDGAXA
PROGRESSIVE RURAL TELEPHONE COOPERATIVE, INC.	CDGVGAXA
PROGRESSIVE RURAL TELEPHONE COOPERATIVE, INC.	CDWLGAXA
PROGRESSIVE RURAL TELEPHONE COOPERATIVE, INC.	CHESGAXA
PROGRESSIVE RURAL TELEPHONE COOPERATIVE, INC.	DDLYGAXA
PROGRESSIVE RURAL TELEPHONE COOPERATIVE, INC.	DXTRGAXA
PROGRESSIVE RURAL TELEPHONE COOPERATIVE, INC.	RNTZGAXA
PUBLIC SERVICE TELEPHONE CO.	BTLRGAXA
PUBLIC SERVICE TELEPHONE CO.	CUDNGAXA
PUBLIC SERVICE TELEPHONE CO.	GENVGAXA
PUBLIC SERVICE TELEPHONE CO.	LZLLGAXA
PUBLIC SERVICE TELEPHONE CO.	RBRTGAXA
PUBLIC SERVICE TELEPHONE CO.	RYNLGAXA
PUBLIC SERVICE TELEPHONE CO.	TLTNGAXA
QUINCY TELEPHONE CO.	ATPLGAXA
WAVERLY HALL TELEPHONE, LLC	WVHLGAXA
WINDSTREAM ACCUCOMM TELECOMMUNICATIONS, INC.	GRDNGAXA
WINDSTREAM ACCUCOMM TELECOMMUNICATIONS, INC.	IRTNGAXA
WINDSTREAM ACCUCOMM TELECOMMUNICATIONS, INC.	TMBOGAXA
WINDSTREAM GEORGIA TELEPHONE, INC.	BLKLGAXA
WINDSTREAM GEORGIA TELEPHONE, INC.	CDSPGAXA
WINDSTREAM GEORGIA TELEPHONE, INC.	OCHLGAXA
WINDSTREAM GEORGIA TELEPHONE, INC.	WHGHGAXA